

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: C.R. BARD, INC., PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL NO. 2187

**THIS DOCUMENT RELATES TO
ALL WAVE 1 AND 2 CASES, AND
SPECIFICALLY TO THE FOLLOWING
CASES:**

ROSAIDA ALONSO

Plaintiff

CIVIL ACTION FILE NO.

2:14-cv- 07112

v.

C. R. BARD, INC.,

Defendant

PATRICIA BOLYARD

Plaintiff

CIVIL ACTION FILE NO.

2:12-cv- 00126

v.

C. R. BARD, INC.,

Defendant

MARTINA WHEELER

Plaintiffs

CIVIL ACTION FILE NO.

2:12-cv-04580

v.

C. R. BARD, INC.,

Defendant

**DEFENDANT C.R. BARD, INC.'S MOTION TO LIMIT THE OPINIONS
AND TESTIMONY OF DANIEL S. ELLIOTT, M.D.**

COMES NOW Defendant C. R. Bard, Inc. ("Bard"), and, pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its

progeny, respectfully moves the Court for an order limiting the expert opinions and testimony of Plaintiffs' proffered expert, Dr. Daniel S. Elliott.

This Motion, as explained in more detail in the attached Memorandum of Law in Support, is based on the grounds that Dr. Elliott is not qualified to offer many of the opinions in his expert reports. Further, the Court should exclude opinions for which Dr. Elliott does not have a reliable foundation. Dr. Elliott should also not be permitted to offer opinions that were disclaimed in his deposition. Finally, the Court should preclude Dr. Elliott from offering the sort of testimony the Court has excluded time and again with prior experts. Thus, Plaintiffs have failed to meet their threshold obligations under Rule 702 and the Supreme Court's decisions in *Daubert* and its progeny. This motion is supported by the Memorandum of Law in Support, Exhibits "1" through "6" attached hereto, and all other papers and pleadings on file in this action.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law in Support, Bard respectfully requests that this Court enter an Order limiting the opinions and testimony that Dr. Elliott may provide at the trial of this matter.

Dated: January 12, 2015

Respectfully submitted,

REED SMITH LLP

/s/ Daniel K. Winters
Daniel K. Winters
599 Lexington Avenue
22nd Floor
New York, NY 10022
(212) 521-5400
(212) 521-5450(*facsimile*)
d winters@reedsmith.com

Michael K. Brown
355 South Grand Avenue, Suite 2900
Los Angeles, California 90071-1514
(213) 457-8000
(213) 457-8080 (*facsimile*)
mkbrown@reedsmith.com

Lori G. Cohen
GREENBERG TRAURIG, LLP
Terminus 200
3333 Piedmont Road, N.E., Suite 2500
Atlanta, Georgia 30305
(678) 553-2100
(678) 553-2386 (*facsimile*)
CohenL@gtlaw.com

Attorneys for Defendant C. R. Bard, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2015, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Daniel K. Winters
Daniel K. Winters
REED SMITH LLP
599 Lexington Avenue
22nd Floor
New York, NY 10022
(212) 521-5400
(212) 521-5450(*facsimile*)
[dwinters@reedsmith.com](mailto:d winters@reedsmith.com)

Attorney for Defendant C. R. Bard, Inc.